

# Nonmotorized Recreation and Transportation Trails Council

## DRAFT MINUTES

*December 12, 2018, 11:30 a.m. – 3 p.m.*

*Telephone 888-327-8914, passcode 6829 265#*

### **1. Meeting was called to order** by Joel Patenaude.

#### **a. Roll Call for Attendance (11:30—11:35 a.m.)**

- i. Anne Murphy
- ii. Ben Popp
- iii. Joel Patenaude
- iv. Geoff Snudden
- v. Bill Hauda
- vi. Blake Theisen
- vii. Debbie Peterson
- viii. Rod Bartlow
- ix. Staff: Kathryn Gehrke (Department of Natural Resources)

### **2. Approval/Discussion of Meeting Minutes from Sept. 19 and 24, 2018 (11:35-11:40)**

Kathryn Gehrke will send minutes out to group for ease of review, they are posted online. Ben Popp moved motion to approve, seconded by Anne Murphy; motion passed.

### **3. Committee Chair Reports (11:40-11:50)**

**a. Funding (Bill, Deb, Rod, Dave)** Bill Hauda emailed out Bicycle Retail and Industry News (BRAIN) report to group yesterday and would like group to read and review initiatives that are going on in other states

Rod Barthlow looked into what states that have legalized marijuana are doing with the revenue and it did not seem that the money was going to recreation, looked like it was mainly going to schools and health

**b. Outreach (Joel, Anne, Geoff)** Joel Patenaude saw a handful of spikes that have been posted on our Facebook page but still not satisfied with engagement and invites everyone to post on the page and develop content. Anne Murphy trying to reach out to get photographs of trail riding but have not gotten any feedback.

**c. Education (Blake, Geoff)** Nothing to report.

#### **4. DNR Report: Kathryn Gehrke (11:50-12:00)**

**FEMA** - 60 day clock – northern will end tomorrow SC is still in, Elroy-Sparta (80% western part open), Hillsboro (parts), 400 (100%), Saunders State Trail (closed for snowmobile this winter)

**The draft SCORP** is out now for public comment – public meeting December 19 from 4-7pm presentation at 5pm

Here is the news release announcing the release of the draft SCORP:

<https://dnr.wi.gov/news/Weekly/?id=668#art1>

And a link to the web page where the draft plan is posted:

<https://dnr.wi.gov/topic/Lands/scorp/>

#### **Master Planning**

Western Prairie Regional Plan – kickoff meeting to initiate public involvement and the planning process was, 11/5 in Baldwin, WI. The department anticipates presenting the draft plan for public review and comment in the Spring 2019 and presenting for NRB approval in August or September 2019. (Shelley Warwick lead planner)

Superior Coastal Plain, Northwest Sands and Northwest Lowlands Regional Plans – these three regions located in the northwest part of the state are being planned concurrently. Public meetings are currently being held. We anticipate presenting for NRB approval in January or February 2019. (Phil Rynish and Beth Kienbaum co-planners)

Blue Mound State Park Master Plan - the department is in the pre-planning phase of revising the BMSP master plan. We anticipate engaging the public in mid- to late January 2019. (Phil Rynish lead planner)

Northeast Sands Regional Plan – the department anticipates posting the draft plan for public review and comment in mid- to late January with public meetings held in early February 2019. We anticipate presenting for NRB approval in April 2019. (Yoyi Steele lead planner)

Southwest Savanna Regional Plan - the department is in the pre-planning phase of this regional plan. We anticipate engaging the public in mid- to late January 2019. (Savannah Ernzen lead planner)

We are working with Buffalo County to develop the Winona Connector. The project is nearing final design and the County is in the process of securing land rights for the trail footprint and construction access.

Joel Patenaude asked Kathryn Gehrke to send out the points of damage and Kathryn agreed.

#### **5. DOT Report: Grant program update, Jill Mrotek-Glenzinski (12:00)**

Jill is not on call

#### **6. Discussion Item: NRTTC under a new governor (12:00-12:10)**

***Does the council need to seek Gov. Evers' approval to continue?***

Kathryn Gehrke discusses how the council will continue to exist and no re-approval is needed as the council was formed under statute

***Does the new governor present an opportunity to bring more attention to nonmotorized trails?***

Joel Patenaude mentions that he had an opportunity to talk to Mr. Evers before the election and he identified himself as a bicyclist and would like to see if there's an opportunity to get in front of him again.

Blake Theisen agreed that we should get in front of him and offered to coordinate with Patenaude.

Geoff Snudden mentioned that Bob Burns from Trek is on the transition team and agreed to talk with him.

Anne Murphy think Evers will have to approve all appointees.

**7. Discussion Item: NRTTC member Bill Hauda's involvement in the Sauk Prairie Recreational Trail complaint against the DNR. (12:10-12:40)**

Joel Patenaude mentions he and Bill Hauda got a chance to talk and discussed Bill's involvement with Sauk Prairie Recreation Area and has not been unable to find in previous NRTTC meeting minutes any authorization Hauda to represent the council in this manner. Going forward we should all sign off when speaking on behalf of the council as a corporative approach

Bill Hauda mentioned the memo that is being referenced was "December 9, 2016" and he thought he had authorization by the council. Hauda discusses he received a call from a law firm in California who asked for background on Sauk Prairie Rec area, he gave it to them and mentioned he was on the council but not representing the council.

Hauda also discusses the statue language which formed NRTTC is explicit "DNR shall consult" and does not feel DNR is following this language.

Patenaude mentions he did not think the December 9, 2016 memo is what the council agreed on as it seems too personal

Rod Bartlow remembers our discussion with our role with the DNR and that they should be consulting more with us, but I feel it was much before December 2016. Bartlow also remembers the council suggesting Hauda consult with DNR Legal to see how they felt about the way the council was being consulted with, in regard to the statute, but does not remember further steps with the statute language.

Patenaude questions if they should inform whoever is reviewing the testimony materials that Bill speaks for himself not for the council and that Hauda was asked to keep us informed or get an opinion not take it this far.

Blake Theisen asks if the council has an opportunity to speak with DNR council and discern or consult?

Hauda questions what is there to discern as the document is not part of the case or testimony.

Patenaude says it is described as exhibit A, so doesn't understand how it cannot be part of the case. Patenaude states that going forward it needs to be clear that the council needs to be consulted, even if it's tough with quarterly meetings. Patenaude continues by saying he hesitates to say the council wouldn't have pursued this issue because maybe we would have consulted together then decided to pursue.

Hauda informs the council he will not be involved any further after the hearing in January 14 9:00 a.m. on a personal nature.

Theisen mentions the council could put a few things in place so moving forward there is a process when speaking on behalf of the council.

Anne Murphy mentions the council should also really take a look at our minutes going forward and Hauda should make it known when testifying that he is not speaking on behalf of the council

*According to a Sept. 19 email from DNR Attorney Diane Milligan to Kathryn which was shared with the council, "While there is no current legal action involving both the Department and the NRTTC as parties, there is both a Sauk County circuit court case and an administrative proceeding before the State Division of Hearings and Appeals in which the plaintiff/petitioner Sauk County Conservation Alliance has alleged that the Department violated section 23.177, Wis. Stats., by 'failing to consult with' the NRTTC when it was developing the Master Plan and the EIS for the Sauk Prairie State Recreation Area. **A hearing is scheduled to be held in the administrative proceeding in January 2019**, and the Alliance has named NRTTC member William Hauda as one of its witnesses. The witness list states that Mr. Hauda 'will testify regarding DNR's failure to consult with the State Nonmotorized Recreation and Transportation Trails Council while drafting the Master Plan.' The Alliance also filed the attached documents as Mr. Hauda's direct testimony. He is the only witness that has been named in conjunction with the Alliance's claim related to the NRTTC."*

*Bill Hauda's testimony is attached — as is Dec. 9, 2016, memo Hauda wrote in which he states he was "authorized by the NRTCC (sic) to express our concerns that DNR has not followed the requirements of state law in developing a proposed master plan for the Sauk Prairie Recreation Area."*

*The council chairperson has been unable to find in previous NRTTC meeting minutes any authorization Hauda to represent the council in this manner.*

*See attached.*

## **8. Stower Seven Lakes Trail master plans, Deb (12:40-1:00)**

Deb Peterson informs the council that a Polk county board member has put a resolution to redo the master plan to include motorized recreation on the Stower Seven Lakes Trail. The Cattail Trail is motorized and multiuse and it does connect to Stower Seven Lakes which is a silent sport trail. DNR went through the resolution and suggested changes.

Deb continued to report that the trail was funded by a DOT Federal Grant so there is a payback of \$600,000

Peterson talks about the stress this issue has placed on locals and businesses, how each committee and county board meeting has been packed and that now the County is being sued by the Friends of the Stower Seven Lakes

Joel Patenaude asks if the county has successfully motorized it correct?

Peterson responded that the committee of the county board decided to make it motorized even though a lot of the testimony was for silent sport and that the county board changed recommendation from the committee, from snowmobile to motorized year-round, it was an eight to seven vote. Peterson continued, because of language of administrative code the DNR judge ruled there could not be motorized but then the DNR changed the language. Peterson suggested the council writing a letter from council to our county board chair.

Patenaude offered to draft letter.

Peterson retracted prior statement and said to leave her report just as information, no letter is needed.

Blake Theisen agreed with Peterson, if the master plan is adopted it may be past the option of writing a letter.

Peterson then mentioned that if a letter is appropriate she will reach back out.

Peterson then explained the money payback when Gandy Dancer changed use, it decided that enough depreciation occurred, and no payback was needed, language was changed so now depreciation cannot be ruled.

Peterson also mentioned that snowmobiles are considered non-motorized by DOT so if Polk County allows snowmobile no payback would be needed but if County allows other motorized then there will be payback.

#### **8. New Business and recap of agenda items with goal for next meeting (12:57-1:00)**

Rod Bartlow talks about a meeting he attended on route of Badger, final maps in place and looking long range on how to plan for the southern part of the state. He also discusses an event in October, where a Trails Caucus was brought up and Legislature Goyke was mentioned as being on this caucus. Council was asked to let Bartlow know if there is a republican legislature who would work well on this caucus.

Joel Patenaude recapped the meeting.

#### **9. Set Next Meeting (1:00-1:02)** Next meeting will be Wednesday, April 10, 2019 at 11:30.

#### **10. Adjournment (1:03)** Deb Peterson moved to adjourn, Blake Theisen second, motion passed.